## **Index**

## **ADMINISTRATION EXPENSES**

Important articles for every will, 2:3

## ADMINISTRATIVE POWERS

Estate's fiduciaries, 1:3, 2:10, 2:11

### **AFFIDAVITS**

Attesting witness, **1:3**, **2:24** Self-proving affidavit, **1:3**, **2:24** 

#### **ANNUITIES**

Residuary estate to charitable lead annuity trust (CLAT). **Charitable Giving** (this index)

Residuary estate to charitable remainder annuity trust (CRAT). Charitable Giving (this index)

## APPOINTMENT

Appointment, power of. **Powers** (this index)

Fiduciaries, appointment of

generally, 2:18 to 2:20

executor nominations, 1:3, 2:20

guardian nominations, 1:3, 2:18

personal representative nominations, 1:3, 2:20 trustee nominations, 1:3, 2:19

#### ARTICLES IN WILLS

**Important Articles for Every Will** (this index)

#### ATTESTATION

Important articles for every will, 1:3, 2:23

### **BENEFICIARIES**

Adult beneficiary, power of principal invasion, 13:18

Employee benefit plans, beneficiary designations, App. L

Life insurance plans, beneficiary designations, **App.** 

Omission of beneficiary, optional will clauses, 13:25

Residuary estate where no spouse, shares passing to individual beneficiaries or to issue of deceased beneficiaries are distributed outright and free from trust, 5:21

#### **BEOUESTS**

Generally, 13:1

Outright bequest vs. disposition in trust, 3:2

## **BONDS**

Waiver provisions, important articles for every will, 1:3, 2:21

### BYPASS TRUSTS

Pre-Residuary Pecuniary Bypass Trust for Spouse (this index)

Residuary estate in bypass trust for spouse

Pre-Residuary Pecuniary Marital Power of Appointment Trust (this index)

**Pre-Residuary Pecuniary Outright Marital Gifts** (this index)

#### CHARITABLE GIVING

Generally, 12:1 to 12:49

Pre-residuary gift of elective share to spouse; outright gift of residuary to charity

generally, 12:1 to 12:8

deduction for outright charitable gift, estate tax considerations, 12:7

essential features of testamentary plan, **12:2** estate taxes

deduction for outright charitable gift, 12:7 exemption, entitlement to, 12:4

form (Will 12-1), 12:1

identifying charitable organization accurately, 12:5

state statutory restrictions on charitable gifts, 12:6

status of proposal to tax gains on death, 12:8 when this will should be used, 12:3

Residuary estate to charitable lead annuity trust (CLAT)

generally, 12:40 to 12:49

deduction for charitable lead annuity trust, estate tax considerations, 12:46

essential features of testamentary plan, **12:41** estate tax

deduction for charitable lead annuity trust,

entitlement to tax exemption, 12:43

form (Will 12-5), 12:40

generation-skipping tax matters, 12:49

identifying charitable organization accurately, 12:44

state statutory limitations on charitable giving, 12:45

CHARITABLE GIVING—Cont'd

#### Residuary estate to charitable lead annuity trust Residuary estate to charitable remainder unitrust (CLAT)—Cont'd (CRUT) for spouse; if spouse does not survive, status of proposal to tax gains on death, 12:48 residuary outright to charity—Cont'd deduction for charitable remainder unitrust. when this will should be used, 12:42 estate tax considerations, 12:16 Residuary estate to charitable remainder annuity election right, charitable remainder unitrust and, trust (CRAT) for spouse; if spouse does not 12:15 survive, residuary estate outright to charity essential features of testamentary plan, 12:10 generally, 12:20 to 12:29 estate tax charitable remainder annuity trust and state elecdeduction for charitable remainder unitrust, tion right, 12:26 12:16 essential features of testamentary plan, 12:21 entitlement to exemption, 12:12 form (Will 12-2), **12:9** considerations, 12:27 generation-skipping tax matters, 12:19 entitlement to exemption, 12:23 identifying charitable organization accurately, form (Will 12-3), 12:20 12:13 generation-skipping tax matters, 12:29 state statutory restrictions on charitable gifts, identifying charitable organization accurately, 12:14 12:24 status of proposal to tax gains on death, 12:17 state election right, charitable remainder annuity when this will should be used, 12:11 trust and, 12:26 state statutory limitations on charitable giving, **CLAYTON CONTINGENT OTIP TRUST** 12:25 Residuary Estate to Clayton Contingent QTIP status of proposal to tax gains on death, 12:28 **Trust** (this index) when this will should be used, 12:22 COMPANION WILLS Residuary estate to charitable remainder lead **Spousal Companion Wills** (this index) unitrust (CLUT) generally, 12:30 to 12:39 **CO-TRUSTEES** deduction for charitable lead unitrust, estate tax Discretion exercised by one co-trustee, 13:12 considerations, 12:36 One co-trustee may act alone, 13:13 essential features of testamentary plan, 12:31 **CURTESY** estate tax deduction for charitable lead unitrust, 12:36 Generally, App. M entitlement to tax exemption. 12:33 DEBTS form (Will 12-4), **12:30** Payment of debts, 2:3 generation-skipping tax matters, 12:39 identifying charitable organization accurately, **DEFINITIONS** 12:34 Terms used in will, important articles for every will, Revenue Procedure 2008-46, other matters not 1:3, 2:17 addressed in, 12:37 **DEVISES** state statutory limitations on charitable giving, Generally, 13:1 status of proposal to tax gains on death, 12:38 **DIGITAL ASSETS** when this will should be used, 12:32 Administrative powers of estate's fiduciaries, 2:11 Residuary estate to charitable remainder unitrust (CRUT) for spouse; if spouse does not survive, DISCLAIMER PROVISIONS, WILLS WITH residuary outright to charity Generally, 10:1 to 10:23 generally, 12:9 to 12:19 Residuary estate to outright marital gift with charitable remainder unitrust disclaimer to sprinkle trust generally, **12:15** disclaimed amounts to children under 35 in sepapermissible versions, 12:18 rate trusts, to grandchildren who are issue of

CHARITABLE GIVING—Cont'd

## INDEX DISCLAIMER PROVISIONS, WILLS WITH —Cont'd Residuary estate to outright marital gift with disclaimer to sprinkle trust—Cont'd deceased child in collective trusts by representation generally, 10:1 to 10:12 essential features of testamentary plan, 10:2 form (Will 10-1), 10:1 to 10:12 generation-skipping tax matters generally, **10:10** when this will should be used, 10:15 potential GSTT transfers under Will 10-1, **DOWER** 10:12 state generation-skipping transfer tax, 10:11 income from disclaimer trust is sprinkled among testator's spouse, children, and grandchildren in trustee's sole discretion, spouse of testator predeceases him or her, testator's residuary estate passes to trusts created in spouse's will, 10:8 sprinkle trust remainder shares of issue, trusts created to receive, 10:7 tax considerations, 10:4

when this will should be used, 10:3

tax qualified disclaimer, elements, 10:5

testamentary trusts in predeceased spouse's

will, conformance to plan in testator's

disclaimed amounts to children under 35 in separate trusts, to grandchildren who are issue of deceased child in separate trusts by representation

## generally, 10:13 to 10:23

will. 10:9

elements of tax qualified disclaimer, 10:17 essential features of testamentary plan, 10:14 form (Will 10-2), 10:13 generation-skipping tax matters generally, **10:22** potential GSTT transfers under Will 10-2, 10:23

income from disclaimer trust is sprinkled among testator's spouse, children and grandchildren in trustee's sole discretion, 10:18

spouse of testator predeceases him or her, testator's residuary estate passes to trusts created in spouse's will, 10:20

sprinkle trust remainder shares of issue, trusts created to receive, 10:19

tax considerations, 10:16

### DISCLAIMER PROVISIONS, WILLS WITH —Cont'd

Residuary estate to outright marital gift with disclaimer to sprinkle trust—Cont'd disclaimed amounts to children under 35 in separate trusts, to grandchildren who are issue of deceased child in separate trusts by representation—Cont'd testamentary trusts in predeceased spouse's will, conformance to plan in testator's will, **10:21** 

Generally, App. M

#### **EDUCATION TRUST**

Generally, 13:2

#### **ELECTIVE SHARE**

Generally, App M. Planning, 13:22

Pre-residuary gift of elective share to spouse. **Charitable Giving** (this index)

#### EMPLOYEE BENEFIT PLANS

Beneficiary designations, App. L

## ESTATE AND GIFT TAXES

Charitable Giving (this index) Federal estate taxes, App. A, 3:5 General considerations, estate and gift taxes, 3:5,

Optional will clauses, DSUE, 13:3 Payment responsibility, 1:3, 2:15 State laws, App. B, 3:6

## **EXECUTION OF WILL**

Requirements of each state, App. E

## **EXECUTORS**

Nomination of executor, important articles for every will, 1:3, 2:20

## **EXORDIUM**

Important articles for every will, 1:3, 2:2

## **EXPENSES**

Administration expenses, important articles for every will, 2:3

### EXPLANATORY MATTERS

Generally, 1:1 to 1:5 Appendices, 1:2 Articles which should be/must be components of every will, 1:3

Chapters, 1:2

## EXPLANATORY MATTERS—Cont'd

Formatting, 1:5 Nomenclature, 1:5 Using forms in book, 1:4

#### **EYE CHART**

Quick eye chart for wills, App. Q

#### **FAMILY ALLOWANCES**

Generally, App. M

## **FAMILY IDENTIFICATION**

Important articles for every will, 1:3, 2:4

## FAMILY VACATION PROPERTY

Real property trust, 13:10

## **FIDUCIARIES**

Administrative powers of estate's fiduciaries, 1:3, 2:10, 2:11

Appointment of fiduciaries

executor or personal representative, 1:3, 2:20 guardians, 1:3, 2:18 trustees, 1:3, 2:19

Business interests, fiduciary powers, 1:3, 2:12

Digital assets, administrative powers of estate's fiduciaries, 2:11

Eligibility requirements, App. F

Executor or personal representative nominations, 1:3, 2:20

Guardian nominations, 1:3, 2:18

Powers of fiduciaries, state rule summary, App. O

Preferences, App. F

Selection of fiduciaries, choices regarding, 3:12

Tax matters, fiduciary powers, 1:3, 2:13

Trustee nominations, 1:3, 2:19

Who may be, App. F

#### **FOOTNOTES**

Master footnotes, App. P

## FORCED HEIR STATUTES

Generally, App. M

## FRACTIONAL FORMULAS

Optional will clauses, 13:4

Pecuniary vs. fractional formulas, special considerations when drafting testamentary trusts, **3:9** 

## GENERAL CONSIDERATIONS, WILLS AND TESTAMENTARY TRUSTS

Generally, 3:1 to 3:13

Children's or grandchildren's trusts, choices regarding, **3:11** 

Different kinds of trusts, 3:3

## GENERAL CONSIDERATIONS, WILLS AND TESTAMENTARY TRUSTS—Cont'd

Federal estate and gift taxes, 3:5

Fiduciaries, selection of, choices regarding, 3:12

Generation-skipping tax matters

generally, 3:7

state generation-skipping transfer taxes, 3:8

Outright bequest vs. disposition in trust, 3:2

Overview, 3:1

Pecuniary vs. fractional formulas, special choices in drafting testamentary trusts, 3:9

Purposes for which different kinds of trusts are used, **3:3** 

Same sex marriages, App. D, 3:13

Spousal right of election, special choices in drafting testamentary trusts, **3:10** 

State estate and gift taxes, 3:6

Tax considerations driving selection of tax planning trusts, **3:4** 

#### **GENERATION-SKIPPING TRANSFER TAX**

Generally, **3:6** 

**Disclaimer Provisions, Wills With (this index)** 

Federal law discussion, App. C

Planning with traditional A/B trusts and with portability, **4:9** 

Pre-Residuary Pecuniary Bypass Trust for Spouse (this index)

Pre-Residuary Pecuniary Marital Power of Appointment Trust (this index)

**Pre-Residuary Pecuniary Outright Marital Gifts** (this index)

**Pre-Residuary Pecuniary Sprinkle Trust** (this index)

**Pre-Residuary Pecuniary Trusts for Issue** (this index)

Residuary estate to charitable lead annuity trust (CLAT), **12:49** 

Residuary estate to charitable remainder annuity trust (CRAT) for spouse, **12:29** lead unitrust (CLUT), **12:39** unitrust (CRUT) for spouse, **12:19** 

Residuary Estate to Clayton Contingent QTIP Trust (this index)

Residuary Estate to Marital Power of Appointment Trust (this index)

**Residuary Estate to One-Lung QTIP Trust** (this index)

Residuary Estate to Spouse Outright (this index) Residuary Estate to Sprinkle Trust for Spouse,

Children and Grandchildren (this index)

Residuary Estate Where No Spouse (this index) Spousal Companion Wills (this index)

## GENERATION-SKIPPING TRANSFER TAX —Cont'd

State laws, App. B, 3:6

#### **GIFTS**

**Charitable Giving** (this index)

**Estate and Gift Taxes** (this index)

Memorandum of gift, 13:7

Personal property, gifts of, important articles for every will, 1:3, 2:5

Uniform Gifts/Uniform Transfers to Minors Acts, **App. G** 

#### **GUARDIANS**

Nomination of guardian, 1:3, 2:18

#### **HEIRS**

Forced heir statutes, App. M

## HOMESTEAD ALLOWANCES

Generally, App. M

## **IDENTIFICATION**

Family identification, important articles for every will. 1:3, 2:4

## IMPORTANT ARTICLES FOR EVERY WILL

Generally, 1:3, 2:1 to 2:24

Administration expenses, 2:3

Administrative powers of estate's fiduciaries, 1:3, 2:10, 2:11

Affidavit of attesting witness, 1:3, 2:23

Attestation, 1:3, 2:23

Bond waiver provisions, 1:3, 2:21

Debts, payment of, 2:3

Definition of terms used in will, 1:3, 2:17

Digital assets, administrative powers of estate's fiduciaries, 2:11

Estate tax payment responsibility, 1:3, 2:15

Executor nominations, 1:3, 2:20

Exordium, 1:3, 2:2

Family identification, 1:3, 2:4

**Fiduciaries** 

administrative powers of estate's fiduciaries, 1:3, 2:10, 2:11

appointments of fiduciaries, 1:3 to 1:3, 2:18 to 2:20

business interests, fiduciary powers, **1:3, 2:12** digital assets, administrative powers of estate's fiduciaries, **2:11** 

tax matters, fiduciary powers, 1:3, 2:13

Gifts of personal property, 1:3, 2:5

Guardian nominations, 1:3, 2:18

Overview, 2:1

Personal representative nominations, 1:3, 2:20

## IMPORTANT ARTICLES FOR EVERY WILL —Cont'd

Pre-residuary dispositive provisions, 1:3, 2:6

Residuary estate dispositions, 1:3, 2:7

Rule against perpetuities, protection against inadvertently violating, **App. N, 2:8** 

Self-proving affidavit, 1:3, 2:24

Simultaneous death provisions, App. J, 1:3, 2:16

Tax matters

estate tax payment responsibility, 1:3, 2:15

fiduciary powers, 1:3, 2:13

Testimonium, 1:3, 2:22

Trust, wills containing

power in trust, 1:3, 2:14

rule against perpetuities, protection against inadvertently violating, **App. N, 2:8** 

terminating trust, adding to remainderman's trust. 2:9

Trustee nominations, 1:3, 2:19

## **INCENTIVE TRUST**

Generally, 13:5

#### INCORPORATION BY REFERENCE

Generally, App. I

#### IN TERROREM

Optional will clauses, 13:23

### INTER VIVOS TRUSTS

Residuary estate pour-overs to inter vivos trust.

Spousal Companion Wills (this index)

## INVASION OF PRINCIPAL

For adult beneficiary, 13:18

For child, 13:17

#### **LEGACIES**

Generally, 13:1

#### LIFE INSURANCE

Beneficiary designations, **App. L** Optional will clauses, **13:24** 

## **MARRIAGE**

Same sex marriage, App. D, 3:13

## MASTER FOOTNOTES

Generally, App. P

#### MINORS

Gifts to issue who are minors, trusts created to receive, **8:50**, **9:50** 

Uniform Gifts/Uniform Transfers to Minors Acts, App. G

ONE-LUNG QTIP TRUST	PETS
Residuary Estate to One-Lung QTIP Trust (this	Pet care trust (funded), 13:8
index)	PLANNING
OPTIONAL WILL CLAUSES	Elective share planning, 13:22
Generally, 13:1 to 13:25	Traditional A/B trusts and with portability. <b>Trust</b>
Beneficiary, omission of, 13:25	<b>Provisions</b> (this index)
Bequests, 13:1	POUR-OVER PROVISIONS
Co-trustees	
discretion exercised by one co-trustee, 13:12	Generally, <b>App. H Spousal Companion Wills</b> (this index)
one co-trustee may act alone, 13:13	
Devises, 13:1	POWERS
Education trust, 13:2	Appointment, power of
Elective share planning, 13:22	general, <b>13:15</b>
Estate tax provisions, DSUE, 13:3	limited, <b>13:16</b>
Family vacation property, real property trust, 13:10	marital power of appointment, below
Fractional funding formula, 13:4	Fiduciaries
Gift, memorandum of, 13:7 Incentive trust, 13:5	administrative powers of estate's fiduciaries, 1:3, 2:10, 2:11
In terrorem clauses, 13:23	business interests, fiduciary powers, 1:3, 2:12
Invasion of principal, power of	digital assets, administrative powers of estate's
for adult beneficiary, <b>13:18</b>	fiduciaries, 2:11
for child, 13:17	state rule summary, powers of fiduciaries, <b>App.</b>
Legacies, 13:1	0
Life insurance, 13:24	tax matters, fiduciary powers, 1:3, 2:13
Memorandum of gift, 13:7	Five & five power, 13:19
Personal property	Invasion of principal, power of
memorandum of gift, 13:7	for adult beneficiary, 13:18
selection of items by lot, 13:6	for child, <b>13:17</b>
Pet care trust (funded), 13:8	Marital power of appointment
Power of appointment	Pre-Residuary Pecuniary Marital Power of
general, <b>13:15</b>	Appointment Trust (this index)
limited, <b>13:16</b>	residuary marital power of appointment trust Pre-Residuary Pecuniary Bypass Trust for
Precatory language, trust provisions, 13:14	Spouse (this index)
Qualified domestic trust (QDOT), 13:9	Pre-Residuary Pecuniary Sprinkle Trust
Real property trust for family vacation property, 13:10	(this index)
Spendthrift trust provisions, <b>13:20</b>	Pre-Residuary Pecuniary Trusts for Issue
Supplemental needs trust (special needs trust),	(this index)
13:11	Trust, power in, important articles for every will,
Uneconomic termination, trust provisions, 13:21	1:3, 2:14
•	Withdrawal, power of, trust provisions, 13:19
PAYMENT  Debte resument of 2.2	PRE-RESIDUARY CLAUSES
Debts, payment of, 2:3 Estate tax payment responsibility, 1:3, 2:15	Dispositive provisions, important articles for every
Estate tax payment responsibility, 1:3, 2:15	will, <b>1:3, 2:6</b>
PERSONAL PROPERTY	PRE-RESIDUARY PECUNIARY BYPASS
Gifts of personal property	TRUST FOR SPOUSE
important articles for every will, 1:3, 2:5	Outright gift to spouse of residuary estate
memorandum of gift, 13:7	generally, <b>9:1 to 9:8</b>
PERSONAL REPRESENTATIVE	essential features of testamentary plan, 9:2
Nominations, 1:3, 2:20	form (Will 9-1), <b>9:1</b>
1 to initiations, 1009 Momb	101III ( 11 III ) 1), <b>7.1</b>

Index-6

PRE-RESIDUARY PECUNIARY BYPASS TRUST FOR SPOUSE—Cont'd	PRE-RESIDUARY PECUNIARY MARITAL POWER OF APPOINTMENT TRUST
Outright gift to spouse of residuary estate—Cont'd	—Cont'd
generation-skipping tax matters	Residuary estate to children under 35 in separate
generally, 9:6	trusts, to grandchildren who are issue of
potential GSTT transfers under Will 9-1, <b>9:8</b>	deceased child in collective trusts by represen- tation—Cont'd
state generation-skipping transfer tax, 9:7	gifts to issue who are minors, trusts created to
shares of issue, trusts created to receive, 9:5	receive, 8:50
tax considerations, 9:4	IRS rules, general power of appointment marital
when this will should be used, 9:3	deduction trusts, <b>8:49</b>
Residuary marital power of appointment trust	tax considerations, 8:48
generally, <b>9:9 to 9:17</b> essential features of testamentary plan, <b>9:10</b>	when this will should be used, 8:47
form (Will 9-2), <b>9:9</b>	Residuary estate to sprinkle trust for spouse, chil-
generation-skipping tax matters	dren and grandchildren
generally, 9:15	generally, <b>8:35 to 8:44</b>
potential GSTT transfers under Will 9-2, <b>9:17</b>	essential features of testamentary plan, 8:36
state generation-skipping transfer tax, <b>9:16</b>	form (Will 8-5), <b>8:35</b>
IRS rules, general power of appointment marital	generation-skipping tax matters
deduction trusts, 9:13	generally, <b>8:42</b>
tax considerations, 9:12	potential GSTT transfers under Will 8-5, 8:44
trust remainder shares of issue, trusts created to	state generation-skipping transfer tax, 8:43
receive, <b>9:14</b>	IRS rules, general power of appointment marital
when this tax should be used, 9:11	deduction trusts, 8:39
PRE-RESIDUARY PECUNIARY MARITAL POWER OF APPOINTMENT TRUST	sole discretion of trustee, sprinkling of income from residuary trust, <b>8:40</b> tax considerations, <b>8:38</b>
Residuary estate to bypass trust for spouse	trust remainder shares of issue, trusts created to
generally, 8:26 to 8:34	receive, 8:41
essential features of testamentary plan, <b>8:27</b>	when this will should be used, <b>8:37</b>
form (Will 8-4), <b>8:26</b>	
generation-skipping tax matters	PRE-RESIDUARY PECUNIARY OUTRIGHT
generally, 8:32	MARITAL GIFTS
potential GSTT transfers under Will 8-4, <b>8:34</b>	Residuary estate in bypass trust for spouse
state generation-skipping transfer tax, <b>8:33</b>	generally, 8:1 to 8:8
IRS rules, general power of appointment marital	essential features of testamentary plan, 8:2
deduction trusts, 8:30	form (Will 8-1), <b>8:1</b>
remainder shares of issue, trusts created to	generation-skipping tax matters
receive, <b>8:31</b>	generally, 8:6
tax considerations, 8:29	potential GSTT transfers under Will 8-1, <b>8:8</b>
when this will should be used, 8:28	state generation-skipping transfer tax, 8:7
Residuary estate to children under 35 in separate	shares of issue, trusts created to receive, 8:5
trusts, to grandchildren who are issue of	tax considerations, <b>8:4</b>
deceased child in collective trusts by represen-	when this will should be used, <b>8:3</b>
tation	Residuary estate in sprinkle trust for spouse, chil-
generally, <b>8:45 to 8:53</b>	dren and grandchildren
essential features of testamentary plan, <b>8:46</b>	generally, <b>8:9 to 8:17</b>
form (Will 8-5), <b>8:45</b>	essential features of testamentary plan, 8:10
generation-skipping tax matters	form (Will 8-2), <b>8:9</b>
generally, 8:51	generation-skipping tax matters
potential GSTT transfers under Will 8-6, <b>8:53</b>	generally, 8:15
state generation-skipping transfer tax, 8:52	potential GSTT transfers under Will 8-2, 8:17

MARITAL GIFTS—Cont'd	TRUST—Cont'd
Residuary estate in sprinkle trust for spouse, chil-	Residuary marital power of appointment trust
dren and grandchildren—Cont'd	—Cont'd
generation-skipping tax matters—Cont'd	sole discretion of trustee, sprinkling of income
state generation-skipping transfer tax, <b>8:16</b>	from pre-residuary trust, 9:32
shares of issue, trusts created to receive, <b>8:14</b>	tax considerations, 9:30
sole discretion of trustee, sprinkling income from	trust remainder of shares of issue, trusts created
residuary trust, 8:13	to receive, 9:33
tax considerations, 8:12	when this will should be used, 9:29
when this will should be used, 8:11	
Residuary estate to children under 35 in separate	PRE-RESIDUARY PECUNIARY TRUSTS FOR
trusts and to grandchildren who are issue of	ISSUE
deceased child in collective trusts by represen-	Residuary estate to outright marital gift
tation	generally, <b>9:37 to 9:44</b>
generally, <b>8:18 to 8:25</b>	essential features of testamentary plan, 9:38
essential features of testamentary plan, 8:19	form (Will 9-5), <b>9:37</b>
form (Will 8-3), <b>8:18</b>	generation-skipping tax matters
generation-skipping tax matters	generally, 9:42
generally, <b>8:23</b>	potential GSTT transfers under Will 9-5, 9:44
potential GSTT transfers under Will 8-3, 8:25	state generation-skipping transfer tax, 9:43
state generation-skipping transfer tax, 8:24	shares of issue, trusts created to receive, 9:41
shares of issue, trusts created to receive, 8:22	tax considerations, 9:40
tax considerations, 8:21	when this will should be used, 9:39
when this will should be used, 8:20	Residuary marital power of appointment trust
PRE-RESIDUARY PECUNIARY SPRINKLE	generally, <b>9:45 to 9:53</b>
TRUST	essential features of testamentary plan, 9:46
Residuary estate to outright marital gift	form (Will 9-6), <b>9:45</b>
generally, 9:18 to 9:26	generation-skipping tax matters
essential features of testamentary plan, 9:19	generally, 9:51
form (Will 9-3), <b>9:18</b>	potential GSTT transfers under Will 9-6, 9:53
generation-skipping tax matters	state generation-skipping transfer tax, 9:52
generally, <b>9:24</b>	gifts to issue who are minors, trusts created to
•	receive, <b>9:50</b>
potential GSTT transfers under Will 9-3, <b>9:26</b> state generation-skipping transfer tax, <b>9:25</b>	IRS rules, general power of appointment marital
shares of issue, trusts created to receive, 9:23	deduction trusts, 9:49
	tax considerations, 9:48
sole discretion of trustee, sprinkling of income from pre-residuary trust, <b>9:22</b>	when this will should be used, <b>9:47</b>
tax considerations, 9:21	PRINCIPAL, INVASION OF
when this will should be used, <b>9:20</b>	For adult beneficiary, 13:18
Residuary marital power of appointment trust	For child, 13:17
generally, 9:27 to 9:36	
essential features of testamentary plan, 9:28	QTIP
form (Will 9-4), <b>9:27</b>	Portability, <b>4:8</b>
	Residuary Estate to Clayton Contingent QTIP
generation-skipping tax matters	Trust (this index)
generally, 9:34	Residuary Estate to One-Lung QTIP Trust (this
potential GSTT transfers under Will 9-4, <b>9:36</b>	index)
state generation-skipping transfer tax, 9:35	QUALIFIED DOMESTIC TRUST (QDOT)
IRS rules, general power of appointment marital deduction trusts, <b>9:31</b>	Generally, 13:9
ucuucuon nusts, <b>7.31</b>	Generally, 13.7

#### REAL PROPERTY

Family vacation property, real property trust, 13:10

#### RESIDUARY ESTATE GENERALLY

**Disclaimer Provisions, Wills With** (this index) Disposition of residuary estates, important articles for every will, **1:3, 2:7** 

**Spousal Companion Wills** (this index)

# RESIDUARY ESTATE TO CLAYTON CONTINGENT QTIP TRUST

Generally, 7:11 to 7:21

Essential features of testamentary plan, 7:12

Explanation of Clayton QTIP, 7:13

Form (Will 7-2), 7:11

Generation-skipping tax matters

generally, 7:19

potential GSTT transfers under Will 7-2, 7:21

state generation-skipping transfer tax, 7:20

IRS rules, 7:16

Shares of issue, trusts created to receive, 7:18

State estate tax rules, QTIP trust election, 7:17

Tax considerations, 7:15

When this will should be used, 7:14

## RESIDUARY ESTATE TO MARITAL POWER OF APPOINTMENT TRUST

If spouse does not survive, residuary estate to children under 35 in separate trusts and to grandchildren who are issue of deceased child in collective trusts by representation

generally, **6:40 to 6:47** 

essential features of testamentary plan, 6:41

form (Will 6-6), 6:40

generation-skipping tax matters

generally, 6:45

potential GSTT transfers under Will 6-6, 6:47

state generation-skipping transfer tax, **6:46** 

shares of issue, trusts created to receive, 6:44

tax considerations, 6:43

when this will should be used, 6:42

## RESIDUARY ESTATE TO ONE-LUNG QTIP TRUST

Generally, 7:1 to 7:10

Essential features of testamentary plan, 7:2

Form (Will 7-1), 7:1

Generation-skipping tax matters

generally, 7:8

potential GSTT transfers under Will 7-1, 7:10

state generation skipping-transfer tax, 7:9

IRS rules, 7:5

Shares of issue, trusts created to receive, 7:7

## RESIDUARY ESTATE TO ONE-LUNG QTIP TRUST—Cont'd

State estate tax rules, QTIP trust election, 7:6

Tax considerations, 7:4

When this will should be used, 7:3

## RESIDUARY ESTATE TO SPOUSE OUTRIGHT

If spouse does not survive, residuary estate in equal outright shares to testator's parents and to spouse's parents

spouse s parents

generally, **5:25 to 5:33** 

essential features of testamentary plan, 5:25, 5:26

form (Will 5-4), **5:25** 

generation-skipping tax matters

generally, 5:31

potential GSTT transfers under Will 5-4, 5:33

state generation skipping tax, 5:32

shares passing to parents and in-laws equally are distributed outright and free from trust, **5:29** 

tax considerations, 5:28

testator's siblings (and their issue) and testator's spouse's siblings (and their issue) receive equal parts of deceased parents' equal share, 5:30

when this will should be used, 5:27

If spouse does not survive or disclaims, residuary estate to children in separate outright shares, to grandchildren who are issue of deceased child in separate outright parts per stirpes

generally, **5:1 to 5:9** 

essential features of testamentary plan, 5:2

form (Will 5-1), **5:1** 

generation skipping tax matters

generally, 5:7

potential generation-skipping tax transfers under Will 5-1, **5:9** 

state generation skipping transfer tax, **5:8** 

grandchildren receive equal parts of deceased parent's equal share, **5:6** 

shares passing to children and grandchildren outright and free from trust, **5:5** 

tax considerations, 5:4

when this will should be used, 5:3

If spouse does not survive or disclaims, residuary estate to children under 35 in separate trusts, to grandchildren who are issue of deceased child

in collective trusts by representation

generally, **6:1 to 6:8** 

essential features of testamentary plan, 6:2

form (Will 6-1), 6:1

generation-skipping tax matters

generally, 6:6

#### RESIDUARY ESTATE TO SPOUSE OUTRIGHT RESIDUARY ESTATE WHERE NO SPOUSE —Cont'd —Cont'd If spouse does not survive or disclaims, residuary To children in separate outright shares, to estate to children under 35 in separate trusts, to grandchildren who are issue of deceased child grandchildren who are issue of deceased child in outright parts per stirpes—Cont'd -Cont'd generation-skipping transfer tax—Cont'd in collective trusts by representation—Cont'd state generation skipping transfer tax, 5:16 generation-skipping tax matters—Cont'd grandchildren receive equal parts of their potential GSTT transfers under Will 6-1, 6:8 deceased parent's equal share, 5:14 state generation-skipping transfer tax, 6:7 when this will should be used. 5:12 shares of issue, trusts created to receive, 6:5 To children under 35 in separate trusts and to grandchildren who are issue of deceased child tax considerations, **6:4** when this will should be used, 6:3 in collective trusts by representation in separate trusts by representation generally, 6:9 to 6:15 generally, **6:16 to 6:23** essential features of testamentary plan, 6:10 essential features of testamentary plan, 6:17 form (Will 6-2), **6:9** form (Will 6-3), 6:16 generation-skipping tax matters generation-skipping tax matters generally, 6:13 generally, 6:21 potential GSTT transfers under Will 6-2, potential GSTT transfers under Will 6-3, 6:15 6:23 state generation-skipping transfer tax, 6:14 state generation-skipping transfer tax, 6:22 shares of issue, trusts created to receive, 6:12 shares of issue, trusts created to receive, 6:20 when this will should be used, 6:11 tax consequences, 6:19 in separate trusts by representation when this will should be used, 6:18 generally, **6:24 to 6:30** RESIDUARY ESTATE TO SPRINKLE TRUST essential features of testamentary plan, 6:25 FOR SPOUSE, CHILDREN AND form (Will 6-4), 6:24 GRANDCHILDREN generation-skipping tax matters Generally, 6:31 to 6:39 generally, 6:28 Essential features of testamentary plan, 6:32 potential GSTT transfers under Will 6-4, Form (Will 6-5), **6:31** 6:30 Generation-skipping tax matters state generation-skipping transfer tax, 6:29 generally, 6:37 shares of issue, trusts created to receive, 6:27 potential GSTT transfers under Will 6-5, 6:39 when this will should be used, 6:26 state generation-skipping transfer tax, 6:38 To named individuals in unequal shares Gifting of residuary estate, **6:35** generally, 5:18 to 5:24 Shares of issue, trusts created to receive, 6:36 essential features of testamentary plan, 5:19 Tax considerations, 6:34 form (Will 5-3), **5:18** When this will should be used, 6:33 generation-skipping transfer tax RESIDUARY ESTATE WHERE NO SPOUSE generally, 5:22 To children in separate outright shares, to potential GSTT transfers under Will 5-3, 5:24 grandchildren who are issue of deceased child state generation skipping transfer tax, 5:23 in outright parts per stirpes shares passing to individual beneficiaries or to generally, **5:10 to 5:17** issue of deceased beneficiaries are children and grandchildren, shares passing are distributed outright and free from trust, 5:21 distributed outright and free from trust, 5:13 when this will should be used. 5:20 essential features of testamentary plan, 5:11

RULE AGAINST PERPETUITIES

Protection against inadvertently violating,

important articles for every will, 2:8

Generally, App. N

form (Will 5-2), 5:10

generally, 5:15

generation-skipping transfer tax

potential GSTT transfers under Will 5-2, 5:17

#### SAME SEX MARRIAGES SPRINKLE TRUSTS—Cont'd Pre-Residuary Pecuniary Marital Power of Generally, App. D **Appointment Trust** (this index) SELF-PROVING AFFIDAVIT **Pre-Residuary Pecuniary Outright Marital Gifts** Generally, 1:3, 2:24 (this index) SIMPLE WILLS WITHOUT TRUST Pre-Residuary Pecuniary Sprinkle Trust (this **PROVISIONS** index) Residuary Estate to Sprinkle Trust for Spouse. Generally, **5:1 to 5:33** Children and Grandchildren (this index) **Residuary Estate to Spouse Outright** (this index) **Residuary Estate Where No Spouse** (this index) SUPPLEMENTAL NEEDS TRUST SIMULTANEOUS DEATH Generally, 13:11 Important articles for every will, 1:3, 2:16 **TAXATION** Statutory provisions, App. J Disclaimer provisions, wills with, 10:4, 10:16 SPECIAL NEEDS TRUST Estate and Gift Taxes (this index) Generally, 13:11 Fiduciary powers regarding tax matters, 1:3, 2:13 SPENDTHRIFT TRUSTS **Generation-Skipping Transfer Tax** (this index) Generally, 13:20 Pre-residuary pecuniary bypass trust for spouse, tax considerations, 9:4, 9:12 SPOUSAL COMPANION WILLS Pre-residuary pecuniary marital power of appoint-Generally, **11:1 to 11:17** ment trust, tax considerations, 8:29, 8:38, 8:48 Residuary estate pour-overs to inter vivos trust Pre-residuary pecuniary outright marital gifts, tax generally, 11:10 to 11:17 considerations, 8:4, 8:12, 8:21 essential features of testamentary plan, 11:11 Pre-residuary pecuniary sprinkle trust, tax form (Will 11-2), 11:10 considerations, 9:21, 9:30 generation-skipping tax matters Pre-residuary pecuniary trusts for issue, tax generally, 11:15 considerations, 9:40, 9:48 potential GSTT transfers under Will 11-2. Selection of tax planning trusts, tax considerations 11:17 driving, 3:4 state generation-skipping transfer tax, 11:6, Simple wills without trust provisions, tax 11:16 considerations, 5:4, 5:28 tax considerations, 11:13 Spousal companion wills, tax considerations, 11:4, testamentary disposition to trustee, authorization, 11:13 11:14 when this will should be used, 11:12 TERMINATION OF TRUST Residuary estate to outright marital gift; if spouse Adding to remainderman's trust, important articles does not survive, pour-over to spouse's for every will, 2:9 testamentary trusts Uneconomic termination, 13:21 generally, 11:1 to 11:9 essential features of testamentary plan, 11:2 **TESTIMONIUM** form (Will 11-1), **11:1 to 11:9** Important articles for every will, 1:3, 2:22 generation-skipping tax matters generally, 11:7 TRUSTEES potential GSTT transfers under Will 11-1, 11:9 Co-trustees state generation-skipping transfer tax, 11:8 discretion exercised by one co-trustee, 13:12 pour-over to trusts created in spouse's will, 11:5 one co-trustee may act alone, 13:13 shares of issue, trusts created to receive, 11:6 Nomination, important articles for every will, 1:3, tax considerations, 11:4 when this will should be used, 11:3 Power to adjust, drafting, App. K SPRINKLE TRUSTS Unitrust election, drafting for trustee's power to **Disclaimer Provisions, Wills With (this index)** make, App. K

## TRUST PROVISIONS

A/B trusts. Planning, traditional A/B trusts and with portability, below

Bypass trusts

Pre-Residuary Pecuniary Bypass Trust for Spouse (this index)

residuary estate to bypass trust for spouse

Pre-Residuary Pecuniary Marital Power of Appointment Trust (this index)

Pre-Residuary Pecuniary Outright Marital Gifts (this index)

Charitable remainder lead unitrust (CLUT).

**Charitable Giving** (this index)

Charitable remainder unitrust (CRUT). Charitable Giving (this index)

Children's or grandchildren's trusts, choices regarding, **3:11** 

Different kinds of trusts, 3:3

Education trust, 13:2

Estate and gift taxes, general considerations, **3:5**, **3:6** 

Family vacation property, real property trust for, 13:10

Fiduciaries, choices regarding selection, **3:12** Five & five power, **13:19** 

General considerations, wills and testamentary trusts, 3:1 to 3:13

**Generation-Skipping Transfer Tax** (this index) Incentive trust, **13:5** 

Inter vivos trust, residuary estate pour-overs. **Spousal Companion Wills** (this index)

Invasion of principal, power of

for adult beneficiary, 13:18

for child, 13:17

Outright bequest vs. disposition in trust, 3:2

Pecuniary vs. fractional formulas, special considerations when drafting testamentary trusts, **3:9** 

Pet care trust (funded), 13:8

Planning, traditional A/B trusts and with portability generally, **4:1 to 4:9** 

advantages and disadvantages, A/B and portability planning, **4:4** 

deceased spousal unused exclusion amount portability, **4:2** 

decoupled states

with exemptions equivalent to federal applicable exclusion amount, **4:6** with lower than federal exemptions, **4:7** 

generation skipping transfer tax considerations, **4:9** 

history of traditional A/B trust planning, 4:1

## TRUST PROVISIONS—Cont'd

Planning, traditional A/B trusts and with portability —Cont'd

QTIPs and portability, **4:8** 

states with no estate tax, 4:5

TRA 2010, 4:2

traditional planning, portability or both, 4:3

Portability. Planning, traditional A/B trusts and with portability, above

Pour-over to trust. **Spousal Companion Wills** (this index)

Power in trust, important articles for every will, 1:3, 2:14

Power of appointment

general, 13:15

limited, 13:16

Precatory language, 13:14

Purposes for which different kinds of trusts are used, 3:3

**QTIPs** 

portability, 4:8

Residuary Estate to Clayton Contingent QTIP Trust (this index)

**Residuary Estate to One-Lung QTIP Trust** (this index)

Qualified domestic trust (QDOT), 13:9

Real property trust for family vacation property, 13:10

Rule against perpetuities, protection against inadvertently violating, important articles for every will, **App. N**, **2:8** 

Special considerations when drafting testamentary trusts

generally, 3:9

children's or grandchildren's trusts, choices regarding, **3:11** 

fiduciaries, choices regarding selection of, **3:12** pecuniary vs. fractional formulas, **3:9** spousal right of election, **3:10** 

Spendthrift trusts, 13:20

Spousal right of election, special choices, **3:10** Sprinkle trusts

**Disclaimer Provisions, Wills With** (this index)

Pre-Residuary Pecuniary Marital Power of Appointment Trust (this index)

Pre-Residuary Pecuniary Outright Marital Gifts (this index)

**Pre-Residuary Pecuniary Sprinkle Trust** (this index)

Residuary Estate to Sprinkle Trust for Spouse, Children and Grandchildren (this index)

## INDEX

## TRUST PROVISIONS—Cont'd

Supplemental needs trust (special needs trust), 13:11

Taxes

Estate and Gift Taxes (this index)

**Generation-Skipping Tax Matters** (this index) selection of tax planning trust, tax considerations, **3:4** 

Terminating trust

adding to remainderman's trust, important articles for every will, **2:9** uneconomic termination, **13:21** 

Trustees (this index)

Uneconomic termination, 13:21

Wills containing trust provisions which are not traditional applicable exclusion or marital deduction trusts

residuary estate, above Withdrawal, power of, **13:19** 

## **UNIFORM ACTS**

Gifts or transfers to minors, App. G

## **UNITRUSTS**

**Charitable Giving** (this index)

Drafting for trustee's power to make unitary election,  $\boldsymbol{App.}\;\boldsymbol{K}$ 

#### VACATION PROPERTY

Real property trust, 13:10

### WAIVER

Bond waiver provisions, important articles for every will, **1:3**, **2:21** 

## WITHDRAWAL, POWER OF

Trust provisions, 13:19

## WITNESSES

Affidavit of attesting witness, 1:3, 2:24